



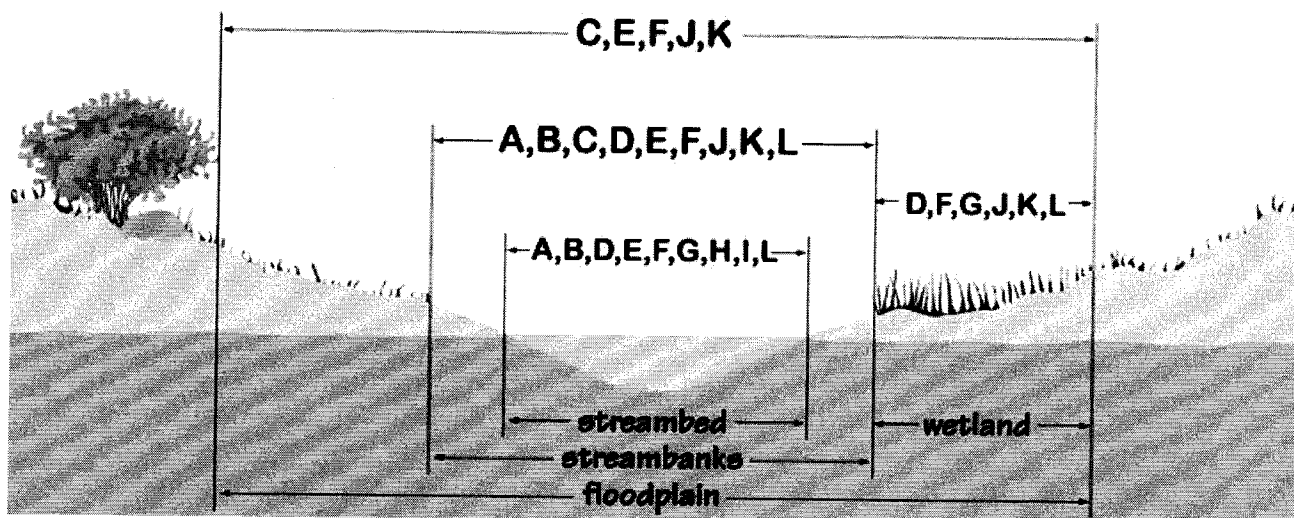
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 Questions? Email us

WATER POLICY INTERIM COMMITTEE 2015-16

Stream Permitting

May 3, 2016

Exhibit 5



Using the diagram above, determine where your project will take place: streambed, streambanks, wetlands, or floodplain. The letters in the diagram refer to the required permits listed below (A through L) and described on the following pages.

If you are planning to do work on or near a waterway in Montana, one or several permits may be required. Conservation districts, along with participating agencies, created a Joint Application Form to help reduce the number of application forms that you need to complete to get your permits. We hope that in addition to reducing paperwork, the use of the form will increase coordination and streamline the permitting process. For detailed instructions on stream permitting please read the [Stream Permitting Book](#).

Joint Application Form

[Joint Application Form](#)

[Joint Application Instructions](#)

This form can be used for the following permits:

Conservation Districts (local government) - [310 permits](#)

MT Fish, Wildlife and Parks (state government) - SP 124 permits

County Floodplain Administrators (local government) - floodplain permits

US Army Corps of Engineers (federal government) - Section 404/Section 10 permits

MT Department of Environmental Quality (state government) - 318 (turbidity) Authorizations

MT Department of Natural Resource and Conservation (state government) - Navigable river land use licenses and easements

► **A. Montana Natural Streambed and Land Preservation Act (310)** - To minimize soil erosion and sedimentation and to protect and preserve streams and rivers in their natural or existing state.

[Show/Hide]

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Any private, nongovernmental individual or entity that proposes to work in or near a stream on public or private land.	Any activity that physically alters or modifies the bed or banks of a perennially flowing stream.	A person planning a project must contact the conservation district office to obtain a permit application prior to any activity in or near a perennial-flowing stream. Once an application is accepted, a team that consists of a conservation district representative; a Montana Fish, Wildlife & Parks biologist; and the applicant may conduct an on site inspection. The team makes recommendations to the conservation district board, which has 60 days from the time the application is accepted to approve, modify, or deny the permit. Local rules apply.	<div> Your Local Conservation District or Montana Association of Conservation Districts 1101 11th Avenue MT 59601 </div> <div> Return to Top Helena, </div>

There is no charge for a 310 permit. Joint application participant - see [Permitting Tips](#).

(406) 443-5711
or

**Department of Natural Resources and
Conservation**
Conservation Districts Bureau
1625 11th Avenue
Helena, MT 59624

► **B. Montana Stream Protection Act (SPA 124 Permit)** - To protect and preserve fish and wildlife resources, and to maintain streams and rivers in their natural or existing stage [\[Show/Hide\]](#)

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Any agency or subdivision of state, county, or city government proposing a project that may affect the bed or banks of any stream in Montana. Many federal agencies also comply either via a memorandum of understanding or general agreement.	Any project including the construction of new facilities or the modification, operation, and maintenance of an existing facility that may affect the natural existing shape and form of any stream or its banks or tributaries.	Any agency or unit of government planning a project must submit a Notice of Construction (application) to Montana Fish, Wildlife & Parks, which has up to 30 days to review the application, perform an on-site investigation, and approve, modify, or deny the application. An application must be submitted for review not less than 60 days before the intended start of construction. There is no application fee. Joint application participant--see Permitting Tips .	Montana Fish, Wildlife & Parks Fisheries Division Fisheries Habitat Bureau 1420 East Sixth Avenue P.O. Box 200701 Helena, MT 59620 0701 (406) 444-2449 jdarding@mt.gov

► **C. City or County Floodplain Development Permit** - To promote the public health, safety and general welfare of the residents and to minimize public and private losses due to flood conditions in Regulated Flood Hazard Areas. Review and permit appropriate uses, within the designated floodplain and floodway areas, that will not be seriously damaged or present a hazard to life, if flooded, thereby limiting the expenditure of public tax dollars for emergency operations and disaster relief. [\[Show/Hide\]](#)

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Anyone planning new development within a designated Special Flood Hazard Areas (SFHA). Check with local floodplain administrator to determine whether a Special Flood Hazard Areas (SFHA) has been designated for the stream of interest. Local Floodplain Administrators	New development including, but not limited to, placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of equipment or materials, and excavation; new construction/development, placement, or replacement of manufactured homes; and new construction, additions, or substantial improvements to residential and commercial buildings.	Permit applications are available from the local floodplain administrator. Application fees are established by the local government and vary widely throughout the state. Joint application participant--see Permitting Tips .	Department of Natural Resources and Conservation Floodplain Management Section 1424 Ninth Avenue P.O. Box 201601 Helena, MT 59620- 1601 (406) 444-0860

► **D. Federal Clean Water Act (404 Permit)** - To restore and maintain the chemical, physical, and biological integrity of the nation's waters [\[Show/Hide\]](#)

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Any person, agency, or entity, either public or private, proposing a project that will result in the discharge or placement of dredged or fill material into waters of the United States. Waters of the U.S. includes the area below the ordinary high water mark of stream channels, lakes or ponds connected to the tributary system, and wetlands adjacent to these waters. Isolated waters and wetlands, as well as man-made ditches and channels, may be waters of the U.S. in certain circumstances, which must be determined by the US Army Corps of Engineers on a case-by-case basis.	Any activity that will result in the discharge or placement of dredged or fill material into waters of the United States, including wetlands. Fill material includes, but is not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States. The term fill material does not include trash, garbage, or waste material.	Any person, agency, or entity, either public or private, planning a project must submit an application to the Corps for review. Permit authorization varies depending on the size and scope of the intended project. Activities that meet the conditions for a Nationwide or Regional General Permit may be approved in 30 to 45 days. Individual Permits require more extensive review and require a public notice period that may take 120 days. Processing times for all permits may increase beyond those durations if reviews are required for Endangered Species or Historic/Cultural Resources impacts. Permit fees for Individual Permits may vary from \$10 for private individuals to \$100 for commercial applicants, and would be assessed when the permit is ready to be issued. There is no fee for Nationwide or Regional General Permit authorizations. Do not send any payment with the application. Applicants will be notified if a fee applies. Joint application participant--see Permitting Tips .	U.S. Army Corps of Engineers Montana Regulatory Program 10 West 15th Street, Suite 2200 Helena, MT 59626 Phone (406) 441-1375 Fax (406) 441-1380

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► **E. Federal Rivers and Harbors Act (Section 10 Permit)** [\[Show/Hide\]](#)

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Any person, agency, or entity, either public or private, proposing any alteration of, or any construction activity in, on, under, or over any federally listed navigable water of the United States.	<p>The temporary or permanent construction of any structure in or over any federally listed navigable waters of the United States, the excavation from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters. Work needing authorization includes boring or tunneling under Navigable Waters, suspending structures, utility lines, or other facilities over Navigable Waters, as well as all work within the Ordinary High Water Mark of Navigable Waters.</p> <p>Navigable waters in Montana are: the entire Missouri River from Three Forks downstream; the Yellowstone River from Emigrant downstream to its confluence with the Missouri River; and the Kootenai River from the Canadian border downstream to Jennings, Montana (just upstream of Libby, MT).</p>	<p>Any person, agency, or entity, either public or private, planning a project must submit an application to the Corps for review. Permit authorization varies depending on the size and scope of the intended project.</p> <p>Activities that meet the conditions for a Nationwide or Regional General Permit may be approved in 30 to 45 days. Individual Permits require more extensive review and require a public notice period that may take 120 days. Processing times for all permits may increase beyond those durations if reviews are required for Endangered Species or Historic/Cultural Resources impacts. Permit fees for Individual Permits may vary from \$10 for private individuals to \$100 for commercial applicants, and would be assessed when the permit is ready to be issued. There is no fee for Nationwide or Regional General Permit authorizations. Do not send any payment with the application. Applicants will be notified if a fee applies. Joint application participant—see Permitting Tips.</p>	<p>U.S. Army Corps of Engineers Montana Regulatory Program 10 West 15th Street, Suite 2200 Helena, MT 59626 Phone (406) 441-1375 Fax (406) 441-1380</p>

► **F. Short-Term Water Quality Standard for Turbidity (318 Authorization)** - To provide a short term water quality turbidity standard for construction activities. Activities must be carried out in accordance with conditions prescribed by the Department of Environmental Quality. To protect water quality. To minimize sedimentation. [Show/Hide]

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Any person, agency, or entity, both public and private, initiating construction activity that will cause short term or temporary violations of state surface water quality standards for turbidity.	Any activity in any state water that will cause unavoidable short term violations of water quality standards. "State water" includes any body of water, irrigation system, or drainage system, either surface or underground, including wetlands, except for irrigation water where the water is used up within the irrigation system and the water is not returned to other state water.	<p>A 318 Authorization must be obtained prior to initiating a project. The authorization may be obtained from the Department of Environmental Quality, or may be waived by Montana Fish, Wildlife & Parks during its review process under the Natural Streambed and Land Preservation Act (310 Permit) or the Stream Protection Act (SPA 124 Permit).</p> <p>Under certain circumstances, Montana Fish, Wildlife & Parks can issue 318 permits on behalf of the Montana Department of Environmental Quality.</p> <p>Individual applications submitted to the Department of Environmental Quality are normally processed within 30 to 60 days. Authorizations waived under the 310 or SPA 124 permit processes correspond to the time frame under each permit system, usually 30 to 60 days. There is an application fee of \$250.00 (make check or money order payable to Water Protection Bureau, Department of Environmental Quality). Joint application participant—see Permitting Tips.</p>	<p>Department of Environmental Quality Water Protection Bureau 1520 East Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-3080</p>

► **G. Montana Land-Use License or Easement on Navigable Waters** - To protect riparian areas and the navigable status of the water body. To provide for the beneficial use of state lands for public and private purposes in a manner that will provide revenues without harming the long term capability of the land or restricting the original commercial navigability. [Show/Hide]

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Any entity proposing a project on lands below the low water mark of navigable waters.	<p>The construction, placement, maintenance, or modification of a structure or improvements in, over, below, or above a navigable river. If in doubt, contact the Department of Natural Resources and Conservation Land Office nearest to the project area for a determination of the navigability of the river.</p> <p>This permit program does not apply to mining, mineral, or oil and gas activities in navigable rivers.</p>	A DNRC Land Use License or Easement Application, along with the nonrefundable application fee, must be submitted to the appropriate Land Office nearest to the project area. DNRC staff will review the application, conduct a field investigation if necessary, and file an environmental action checklist as appropriate. A written report and recommendation is then submitted to the Real Estate Management Bureau in Helena, which makes the final determination and recommends stipulations as necessary. A Land Use License can normally be reviewed, approved, and issued within 60 days upon the payment of the \$50 application fee and a minimum annual rental fee. The license may be held for up to 10 years, with the ability to request renewal for an additional 10 years. An easement requires approval from the Board of Land Commissioners, which normally takes up to 90 days. The current easement application fee is \$50, with an additional fee for the easement itself.	<p>Department of Natural Resources and Conservation DNRC Land Office or Real Estate Management Bureau 1625 Eleventh Avenue P.O. Box 201601 Helena, MT 59620-1601 (406) 444-2074</p>

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► **H. Montana Water Use Act (Water Right Permit and Change Authorization)** - To provide a permit and certificate system for water rights administration that operates within the bounds of the prior appropriation doctrine ("first in time is first in right"). A person's right to use a specific quantity of water depends on when the use of water began. The first person to use water from a source established the first right; the second person could establish a right to what water was left, and so on. To maintain a general adjudication of all existing water rights in the state. To implement a centralized record system. [Show/Hide]

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Any person, agency, or entity, either public or private, proposing any alteration of, or any construction activity in, on, under, or over any federally listed navigable water of the United States.	<p>General Rule – A person must obtain a beneficial water use permit before commencing to construct new or additional diversion, withdrawal, impoundment, or distribution works for appropriation of groundwater over 35 gallons per minute (GPM) or 10 acre feet (AF) per year and for any surface water.</p> <p>Exceptions –</p> <ul style="list-style-type: none"> Groundwater appropriations of 35 (GPM) or less and 10 (AF) or less must first be appropriated and put to use before a water right is issued. Stockwater impoundments of less than 15 AF on a non perennial stream with an annual appropriation of less than 30 AF/year may be constructed first and then a form filed upon completion. <p>Types of Water Rights</p> <p>Provisional Permit – Grants the use of water for a specific amount and purpose.</p> <p>Certificate of Water Right – Issued on:</p> <ul style="list-style-type: none"> Groundwater appropriations of 35 GPM or less and 10 AF or less. Groundwater appropriations for emergency fire developments by a local governmental fire agency where the appropriation is used only for emergency fire protection, which may include enclosed storage. Groundwater appropriations for completed developments where the water has been put to use for nonconsumptive geothermal heating or cooling with a maximum use of 350 GPM. <p>Replacement Well – Issued when an existing well fails and a new well is constructed to replace it. The priority date of the old well is retained.</p> <p>Authorization to Change – Allows an appropriator with a recognized water right or a water right that was exempt from filing to change the place of use, point of diversion, purpose of use, or place of storage and maintain the priority date of the initial water right.</p> <p>Temporary Change – Allows an appropriator to change the water right temporarily for a period of up to 10 years, with possible renewals of not more than 10 years per renewal. No authorization is required for the water right to revert to the original purpose, point of diversion, place of use, or place of storage after the term expires.</p> <p>Instream Flow – Allows water that is diverted for consumptive uses to be transferred temporarily (up to 30 years) to an instream use. All or part of the water right can be leased to the Montana Department of Fish, Wildlife and Parks, leased to another party interested in holding the right for a fishery, or converted to an instream use without a lease.</p>	Water right application forms are available at the eight Water Resources Regional Offices located in Billings, Bozeman, Glasgow, Havre, Helena, Kalispell, Lewistown, and Missoula. Forms, fee schedules, and related information are available on the web at www.dnrc.mt.gov/wrd/ . The Department has 180 days to review the application and issue a deficiency letter and 120 days from a correct and complete application determination to issue a preliminary decision at which time the application is publicly noticed for any potential objections.	<p>Department of Natural Resources and Conservation Water Rights Bureau</p> <p>1424 Ninth Avenue P.O. Box 201601 Helena, MT 59620-1601 (406) 444-6610 or Local DNRC Water Resources Regional Office</p>

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► **I. Montana Water Use Act (Water Reservations)** - To provide water for existing and future beneficial uses of water. To maintain a minimum flow, level, or quality of water. [\[Show/Hide\]](#)

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
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Any governmental entity may apply to reserve water for existing or future beneficial uses or to maintain a minimum flow, level, or quality of water. Any person or entity that needs water for a new or existing development within the boundaries of a conservation district that holds a water reservation may apply to use a portion of the conservation district's water reservation.	All beneficial uses, including such activities related to agriculture as irrigation and stockwater. A water reservation is granted for specific uses. Contact your local conservation district to determine whether it has been granted a water reservation and whether your proposed use is authorized under that water reservation.	The application for reserved water use form is available at the local conservation district office or at the Conservation and Resource Development Division's offices in Miles City, Glasgow, and Helena. An application fee is required. Contact the local conservation district to determine the appropriate fee.	Your <u>local conservation district</u> or <u>Department of Natural Resources and Conservation Water Reservations</u>
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► **J. Stormwater Discharge General Permits** - To prevent degradation of surface waters from pollutants such as sediment, waste materials, industrial chemicals or materials, heavy metals, and petroleum products. To protect existing water quality. To implement and monitor the effectiveness of Best Management Practices (erosion and sediment controls, etc.) used to reduce pollutant loads. [\[Show/Hide\]](#)

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Any person, agency, or entity, either public or private, proposing a construction, industrial, mining, or other defined activity that has a discharge of storm water into surface waters. Under the authority of the Montana Water Quality Act, permit authorization is typically obtained under a Montana Pollutant Discharge Elimination System (MPDES) "General Permit".	<ul style="list-style-type: none"> Construction activity that will disturb one or more total acres including clearing, grading, and excavating activities. A defined industrial activity that will discharge storm water into surface waters. A defined mining or oil and gas activity in which storm water will come into contact with overburden, raw material, intermediate products, finished products, or waste products located on the site of such operations (including active and inactive mine sites) and discharge to surface waters. A defined Small Municipal Separate Storm Sewer System (MS4). 	For storm water discharges associated with construction activity, permit authorization is effective upon Department receipt of a complete Notice of Intent (NOI), Storm Water Pollution Prevention Plan (SWPPP), and fee. This must be received no later than the construction activity start date. For other regulated storm water discharges, a complete Application Form, SWPPP (except for Small MS4s), and fee must be received for review at least 30 days prior to the discharge of storm water from the facility or activity. Fees vary depending on the type of permit. Contact the Department or visit the website listed below for various storm water discharge "General Permits," Application/NOI Forms, fee schedule, and other permitting forms/information.	Department of Environmental Quality Water Protection Bureau 1520 East Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-3080

► **K. Streamside Management Zone Law** - To protect the quality and quantity of forest waters. To conserve the integrity of Montana's streamside zones. [\[Show/Hide\]](#)

Who Must Apply	Activities Requiring a Permit	Applications Procedure/Timeline	Contact
Any landowner or operator conducting a series of commercial forest practices that will access, harvest, or regenerate trees on a defined land area for commercial purposes on private, state, or federal lands.	<p>This law prohibits the following timber harvest activities within at least 50 feet of any stream, lake, or other body of water. The Department of Natural Resources and Conservation (DNRC) must approve any exceptions to these prohibited practices.</p> <ul style="list-style-type: none"> Broadcast burning. Operating wheeled or tracked vehicles except on established roads. Clear cutting. Constructing roads in the Streamside Management Zone except when necessary to cross a stream or wetland. Handling, storing, applying, or disposing of hazardous or toxic material in a manner that pollutes streams, lakes, or wetlands or that may cause damage or injury to humans, land, animals, or plants. Casting road material into a stream, wetland, or watercourse. Depositing slash in streams or other water bodies. 	DNRC must be notified prior to beginning any forest practice. A request to conduct an alternative practice must be submitted to the appropriate DNRC field office. Alternative practices will require an environmental review. The request will be reviewed and an initial response issued within 10 days.	Department of Natural Resources and Conservation Forestry Division 2705 Spurgin Road Missoula, MT 59801 (406) 542-4300 or Local DNRC Land Office

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► **L. Other Laws that May Apply** [Show/Hide]

Laws	Contact
Public Water Supply Watersheds Requires the submission, review, and approval of detailed plans and specifications before beginning the construction or operation of any new railroad, logging road, logging camp, or electric or manufacturing plant in a public water supply watershed.	Department of Environmental Quality 1520 East Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-2544
Shoreline Protection and Aquatic Land Conservation Ordinance Applies to all private individuals and government entities proposing to work in, over, or near any stream, river, lake, or wetland on the Flathead Reservation.	Shoreline Protection Flathead Reservation Tribal Complex P.O. Box 278 Pablo, MT 59855 (406) 675-2700 ext. 7222
County Septic System Regulations Apply to anyone proposing to construct, alter, extend, or operate a sewage treatment and disposal system. Conventional systems must be 100 feet from the 100 year floodplain and 6 feet from groundwater. Alternative designs that are 4 to 6 feet from groundwater must be approved.	County Sanitarian
General Mining Laws/Small Miner's Placer and Dredge Operations Apply to anyone operating a placer, dredge, hardrock, coal, sand, or gravel mine on private or public land.	Department of Environmental Quality 1520 East Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-2544 Lakeshore Protection Act
Applies to all private individuals and government entities proposing to do work in or near a body of water within a county's jurisdictional area.	County Government Offices
Montana Dam Safety Act Applies to the construction, repair, or removal of any dam that impounds 50 acre feet or more at the normal operating pool. Construction and operation permits may be required on dams larger than 50 acre-feet.	Department of Natural Resources and Conservation Dam Safety Program 1424 Ninth Avenue P.O. Box 201601 Helena, MT 59620-1601 (406) 444-6613
Montana Pollutant Discharge Elimination System (MPDES Permit) Applies to all discharges to surface water or groundwater, including those related to industrial, municipal, and other commercial discharges. In addition, several general discharge permits have been developed to streamline permitting of construction dewatering, sand and gravel operations, sewage lagoons, fish farms, animal feeding operations, disinfected water, suction dredging, and placer mining projects.	Department of Environmental Quality Water Protection Bureau 1520 East Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-3080 http://www.deq.mt.gov/wqinfo/mpdes/default.mcp
Montana Water Quality Act Prohibits the pollution of state waters and the placement of wastes in a location where they are likely to cause pollution of any state water.	Department of Environmental Quality Water Quality Act 1520 Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-2544
Fish Stocking Permit for Private Fish Ponds A permit is required to stock fish in a private pond. The permit entitles the holder to stock the pond with fish from a lawful source. Applicants must verify that stocking fish does not pose an unacceptable risk to game fish or species of special concern in adjacent waters.	Department of Fish, Wildlife and Parks Fisheries Division 1420 East Sixth Avenue, Box 200701 Helena, MT 59620-0701 (406) 444-2449 http://fwp.mt.gov/fishing/regulations/ponds.html
Confederated Salish and Kootenai Tribes Water Quality Program Ordinance 89 B prohibits pollution of Flathead Reservation waters. All projects affecting reservation waters must be permitted in accordance with tribal water quality standards. All federally permitted point source discharges require certification under Section 401 of the Clean Water Act to ensure that permit conditions will maintain tribal water quality. The tribes were delegated 401 certification authority by EPA in 1995.	Tribal Water Quality Program Environmental Protection Division P.O. Box 278 Pablo, MT 59855 (406) 675-2700 ext. 7211
National Pollutant Discharge Elimination System (NPDES) Permit The Environmental Protection Agency is the NPDES permitting agency for point source discharge permits on the Flathead Reservation. NPDES forms are available upon request from the tribal NPDES office.	EPA Compliance Officer NPDES Program EPA Region VIII, Montana Office 301 South Park, Drawer 10096 Helena, MT 59626 0096 (406) 441-1140
Permitting of stormwater discharges is also part of the NPDES program. Therefore, for all projects that may result in discharges of stormwater into reservation surface waters, submit a Notice of Intent and Notice of Completion.	Stormwater Program EPA Region VIII 999 18th Street Denver, CO 80202-2466

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Construction activity greater or equal to 1 acre that could potentially contribute stormwater to surface water on the Flathead Reservation requires the development of a stormwater pollution plan. The plan must be submitted to the water quality program 30 days before construction begins.	Tribal Water Quality Program Environmental Protection Division P.O. Box 278 Pablo, MT 59855 (406) 675-2700 ext. 7211
Water Quality Certification (401 Certification) Applies to all activities, public and private, that do not qualify for a US Army Corps of Engineers (COE) nationwide permit or general permit that results in discharge or placement of dredged or fill material into waters of the United States or work done in federally navigable rivers under the under Section 10 of the Rivers and Harbors Act (see Section E.) The COE will notify the applicant whether 401 Certification is required. Fees apply.	Projects not on an Indian Reservation: Department of Environmental Quality Water Protection Bureau 1520 East Sixth Avenue Box 200901 Helena, MT 59620-0901 (406) 444-3080 Projects on an Indian Reservation: Appropriate Tribal Government or EPA Region VIII (address above)

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